

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

USCA Docket Number:

USDC Docket Number : 04-cv-10323

John Evans

v.

Paul Verdini

CLERK'S CERTIFICATE

I, Sarah A. Thornton, Clerk of the United States District Court for the District of Massachusetts, do hereby certify that the annexed documents as indicated on the certified copy of the docket and contained in Volume(s) I are the original pleadings and constitute the record on appeal in the above entitled case for the Notice of Appeal filed on 7/18/05.

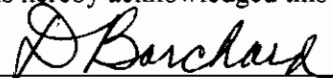
In testimony whereof, I hereunto set my hand and affix the seal of this Court on August 19, 2005.

Sarah A Thornton, Clerk of Court

By: 

Jeanette Ramos, Deputy Clerk

Receipt of the documents in the above entitled case is hereby acknowledged this date: 8/19/05.


Deputy Clerk, US Court of Appeals

Please complete the following information:

COURT OF APPEALS DOCKET NUMBER ASSIGNED: _____

APPEAL

**United States District Court
District of Massachusetts (Boston)
CIVIL DOCKET FOR CASE #: 1:04-cv-10323-RWZ**

Evans v. Verdini
Assigned to: Judge Rya W. Zobel
Cause: 28:2254 Petition for Writ of Habeas
Corpus (State)

Date Filed: 02/17/2004
Jury Demand: None
Nature of Suit: 530 Habeas
Corpus (General)
Jurisdiction: Federal Question

Petitioner

John Evans

represented by **Emanuel Howard**
P.O. Box 66067
Newton, MA 02466-0002
617-965-3042
Fax: 617-965-3793
Email: howarded@comcast.net
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Respondent

Paul Verdini
Superintendent

represented by **Susanne G. Reardon**
Attorney General's Office
One Ashburton Place
18th Floor
Boston, MA 02108
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susanne.reardon@ago.state.ma.us

ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
02/17/2004	<u>1</u>	MOTION for Leave to Proceed in forma pauperis by John Evans.(Jenness, Susan) (Entered: 02/17/2004)
02/17/2004	<u>2</u>	PETITION for writ of habeas corpus pursuant to 28:2254, filed by John Evans.(Jenness, Susan) (Entered: 02/17/2004)
02/17/2004		• If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to Magistrate Judge Dein. (Jenness, Susan) (Entered: 02/17/2004)
02/17/2004		• Case undergoing preliminary screening (Jenness, Susan) (Entered: 02/17/2004)
02/26/2004	<u>3</u>	Judge Rya W. Zobel : Endorsed ORDER entered denying <u>1</u> Motion for Leave to Proceed in forma pauperis. It is further ordered that peititioner must pay the \$5.00 filing fee within 42 days of the date of this Order or this case will be dismissed without prejudice. (Urso, Lisa) (Entered: 02/27/2004)
02/26/2004	<u>4</u>	Judge Rya W. Zobel : ORDER entered (Urso, Lisa) (Entered: 02/27/2004)
03/08/2004		• Filing fee: \$ 5, receipt number 54261 regarding Habeas Corpus (Johnson, Jay) (Entered: 03/08/2004)
03/22/2004	<u>5</u>	ANSWER to Complaint by Paul Verdini.(Reardon, Susanne) (Entered: 03/22/2004)
03/23/2004	<u>6</u>	SUPPLEMENTAL ANSWER to Complaint by Paul Verdini.(Johnson, Jay) (Entered: 03/23/2004)
03/29/2004	<u>7</u>	MOTION for Leave to File additional supplemental answer and furnish copies of state court transcripts and state court appellate record appendix by John Evans. (Johnson, Jay) (Entered: 03/31/2004)

05/03/2004	●	Judge Rya W. Zobel : endorsed ORDER entered granting <u>7</u> Motion for Leave to File additional supplemental answer without opposition. (Urso, Lisa) (Entered: 05/03/2004)
05/21/2004	● <u>8</u>	FURTHER SUPPLEMENTAL ANSWER to Complaint (Volume 1) by Paul Verdini.(Johnson, Jay) (Entered: 05/21/2004)
05/21/2004	● <u>9</u>	FURTHER SUPPLEMENTAL ANSWER to Complaint (Volume 2) by Paul Verdini.(Johnson, Jay) (Entered: 05/21/2004)
05/21/2004	● <u>10</u>	FURTHER SUPPLEMENTAL ANSWER to Complaint (Volume 3) by Paul Verdini.(Johnson, Jay) (Entered: 05/21/2004)
05/21/2004	● <u>11</u>	FURTHER SUPPLEMENTAL ANSWER to Complaint (Volume 4) by Paul Verdini.(Johnson, Jay) (Entered: 05/21/2004)
05/21/2004	● <u>12</u>	FURTHER SUPPLEMENTAL ANSWER to Complaint (Volume 5) by Paul Verdini.(Johnson, Jay) (Entered: 05/21/2004)
06/21/2004	●	NOTICE of Scheduling Conference Scheduling Conference set for 7/14/2004 03:00 PM in Courtroom 12 before Judge Rya W. Zobel. (Urso, Lisa) (Entered: 06/21/2004)
07/14/2004	●	electronic Clerk's Notes for proceedings held before Judge Rya W. Zobel : Scheduling Conference held on 7/14/2004. Plaintiff's motion by 10/20/04 (65p); defendant 12/3/04; plaintiff's reply 12/20/04; Judge will decide on papers or if necessary have hearing; (Urso, Lisa) (Entered: 07/15/2004)
07/21/2004	● <u>13</u>	Letter/request (non-motion) from Emanuel Howard: Out of the Office from 7/31/04-8/23/04. (Johnson, Jay) (Entered: 07/22/2004)
09/13/2004	● <u>14</u>	MEMORANDUM OF LAW by John Evans to <u>2</u>

		Petition for writ of habeas corpus (28:2254). (Attachments: # <u>1</u> Part 2)(Johnson, Jay) (Entered: 09/14/2004)
09/13/2004	●15	EX-PARTE MOTION to authorize counsel to obtain necessary services by John Evans.(Johnson, Jay) (Entered: 09/14/2004)
10/12/2004	●	Judge Rya W. Zobel : endorsed ORDER entered denying [15] Motion. Given the strict statutory limits on this court's review of a habeas petition, this court does not have authority to consider the matter of an expanded record that was not before the state court. (Urso, Lisa) (Entered: 10/13/2004)
10/26/2004	●16	EX-PARTE MOTION for Reconsideration of Denial of His Ex-Parte Motion to Authorize Counsel to Obtain Necessary Services by John Evans.(Johnson, Jay) (Entered: 10/27/2004)
11/02/2004	●	Judge Rya W. Zobel : ORDER entered ELECTRONIC ENDORSEMENT re [16] MOTION for Reconsideration filed by John Evans. Counsel should serve this motion on the other side and let them have an opportunity to respond.(Urso, Lisa) (Entered: 11/03/2004)
11/05/2004	●17	CERTIFICATE OF SERVICE by Paul Verdini re [16] MOTION for Reconsideration, Electronic Endorsement (non-order). (Johnson, Jay) (Entered: 11/09/2004)
11/29/2004	●18	MOTION for Extension of Time to 12/17/04 to File Response/Reply to <i>habeas corpus</i> petition by Paul Verdini.(Reardon, Susanne) (Entered: 11/29/2004)
12/03/2004	●19	Opposition re [16] MOTION for Reconsideration filed by Paul Verdini. (Reardon, Susanne) (Entered: 12/03/2004)
12/13/2004	●20	REPLY to Response to Motion re [16] MOTION for

		Reconsideration filed by John Evans. (Johnson, Jay) (Entered: 12/14/2004)
12/17/2004	<u>21</u>	MEMORANDUM OF LAW by Paul Verdini. (Reardon, Susanne) (Entered: 12/17/2004)
12/21/2004	•	Judge Rya W. Zobel : electronic ORDER entered granting <u>18</u> Motion for Extension of Time to File Response/Reply re <u>18</u> MOTION for Extension of Time to 12/17/04 to File Response/Reply to <i>habeas corpus petition</i> Responses due by 12/17/2004 (Urso, Lisa) (Entered: 12/21/2004)
12/29/2004	<u>22</u>	(Assented) MOTION for Extension of Time to 1/11/04 to File Response/Reply to Memorandum in opposition to petition for habeas corpus by John Evans.(Johnson, Jay) (Entered: 01/04/2005)
01/10/2005	<u>23</u>	Response by John Evans to <u>21</u> Memorandum of Law in Opposition to Petition for Writ of Habeas Corpus. (Johnson, Jay) (Entered: 01/11/2005)
01/21/2005	•	Judge Rya W. Zobel : electronic ORDER entered granting <u>22</u> Motion for Extension of Time to File Response/Reply re [16] MOTION for Reconsideration Responses due by 1/11/2005 (Urso, Lisa) (Entered: 01/21/2005)
07/13/2005	<u>24</u>	Judge Rya W. Zobel : Order ORDER entered. MEMORANDUM OF DECISION: Accordingly, the petition is denied. Judgment may be entered for defendant.(Urso, Lisa) (Entered: 07/13/2005)
07/13/2005	<u>25</u>	Judge Rya W. Zobel : Order ORDER entered. JUDGMENT in favor of defendant (Urso, Lisa) (Entered: 07/13/2005)
07/18/2005	<u>26</u>	NOTICE OF APPEAL by John Evans. \$ 255, receipt number no fee Reason fee is not required: indigent NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit

		Court of Appeals web site at http://www.ca1.uscourts.gov/clerks/transcript.htm MUST be completed and submitted to the Court of Appeals. Appeal Record due by 8/8/2005. (Howard, Emanuel) Additional attachment(s) added on 7/21/2005 (Johnson, Jay). (Entered: 07/18/2005)
07/27/2005	<u>27</u>	MOTION for Certificate of Appealability by John Evans.(Howard, Emanuel) (Entered: 07/27/2005)
07/29/2005	<u>28</u>	NOTICE by John Evans (Howard, Emanuel) (Entered: 07/29/2005)
08/08/2005	<u>29</u>	Judge Rya W. Zobel : endorsed ORDER entered granting in part and denying in part <u>27</u> Motion for Certificate of Appealability. In summary, the certificate of appealability is granted as to grounds 1 and 2; it is denied as to ground 3. (Urso, Lisa) Modified on 8/9/2005 (Urso, Lisa). (Entered: 08/08/2005)